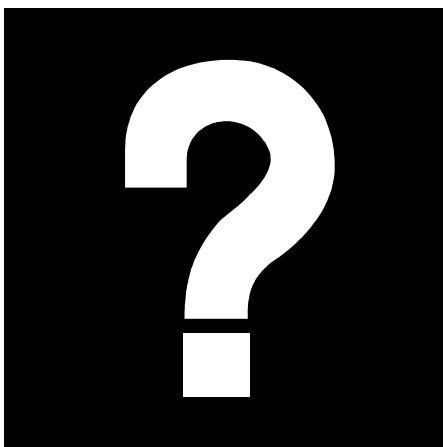


# New Hours of Service (HOS) Rules **Frequently Asked Questions (FAQs)**

February 24, 2004



## **Changes in This Edition:**

Questions Added: E-8, H-1

Question Revised: A-19

# Conversion Table

Former FAQ Number	Current FAQ Number
1	A-1
2	A-2
3	A-3
4	A-4
5	A-5
6	A-6
7	A-7
8	A-8
9	E-7
10	A-9
11	A-10
12	A-11
13	A-12
14	A-13
15	A-14
16	A-15
17	A-16
18	A-17
19	A-18
20	G-1
21	A-19
22	B-1
23	B-2
24	B-3
25	C-1
26	C-2
27	D-1
28	D-2
29	D-3
30	D-4
31	D-5
32	E-1
33	E-2
34	E-3
35	E-4
36	E-5
37	F-1
38	F-2
39	F-3

## New Hours of Service (HOS) Rules Frequently Asked Questions (FAQs)

**Note:** The content of these Frequently Asked Questions (FAQs) is based on policies currently in effect at the Federal Motor Carrier Administration (FMCSA), pending further notice and rulemaking which may be needed to resolve any remaining ambiguities in the new rules.

### A. GENERAL PROVISIONS.....

A-1. When were carriers and drivers allowed or required to comply with the new hours-of-service rules?.....

A-2. Are previous interpretations and guidance regarding hours-of-service still valid?.....

A-3. Are there exceptions to the hours-of-service rules?.....

A-4. How do the new rules differ from former hours-of-service (HOS) regulations?.....

A-5. Why is the maximum driving time increasing from 10 hours to 11 hours? How does raising the number of driving hours save lives?.....

A-6. Won't the restart provision cause drivers to tire more easily than the current hours-of-service (HOS) provisions?.....

A-7. How does the final rule benefit the motor-carrier industry?.....

A-8. How does the final rule benefit the American public?.....

A-9. Why didn't the agency mandate a 24-hour clock?.....

A-10. What are the major provisions in this rule that really improve safety?.....

A-11. What are the penalties for violating the hours-of-service (HOS) rules?.....

A-12. Are Electronic On-Board Recorders (EOBRs) required?.....

A-13. Are motorcoach operators and drivers required to comply with the new rule?.....

A-14. What happens if a driver operates both a bus and truck for part of each day or each week?.....

A-15. If a State retains the 8 hours off-duty requirement for intrastate operations, may a driver who takes 8 hours off duty after completing an intrastate trip begin driving on an interstate trip?.....

A-16. How would “waiting time” at a terminal, plant, or port be logged?.....

A-17. May a driver be called after 8 hours off-duty to report to work 2 hours later?.....

A-18. How does the new hours-of-service rule affect the adverse weather exception?.....

A-19. How do the new hours-of-service (HOS) regulations apply to Mexican and Canadian drivers?.....

A-20. Do the new HOS rules have any effect on the “24-hour restart” exceptions provided in § 395.1 for certain oilfield, water well drilling, construction, and utility service vehicle drivers?.....

A-21. How are “property-carrying” and “passenger-carrying” drivers determined as the terms are used in the new HOS Rule?.....

B. 100 AIR-MILE EXCEPTION DRIVERS.....

B-1. Does the driving time for drivers choosing to use the 100 air-mile radius exception (requiring no log book) increase to 11 hours or is it kept at its current limitation of 10 hours driving?.....

B-2. May a “100 air-mile radius” driver utilize the “16-hour duty period” exception in § 395.1(o)?.....

B-3. May drivers who work split shifts take advantage of the 100 air-mile radius exemption found at §395.1(e)?.....

C. 14-HOUR PERIOD.....

C-1. May a driver be on duty for more than 14 hours?.....

C-2. If a carrier allows a driver to log mealtime as off-duty time, does that permit a driver to extend the 14-hour on-duty period?.....

D. 16-HOUR EXCEPTION.....

D-1. May a short-haul driver take two 15-hour on-duty periods in a seven-

day period, rather than one 16-hour on-duty period?.....

D-2. Won't the 16-hour exception result in additional fatigue?.....

D-3. What is a "duty tour" as the term is used in § 395.1(o)? May a driver work a 16-hour extended day after having been off-duty for 34 consecutive hours? Must a driver comply with the 5-duty tour provision prior to a 34-hour off-duty period?.....

D-4. If a driver is "on duty, not driving" during the 15th and 16th hour of his duty tour and does not drive after that, has he used the 16-hour exception in 395.1(o)?.....

D-5. May a driver having more than one "normal" work reporting location use the 395.1(o) "16 hr exception"?.....

D- 6. May a driver utilize the adverse driving rule, which extends the driving time by two additional hours, in conjunction with the 16-hour exception, which allows driving during the 14th and 15th hour but does not remove the 11-hour driving limit? If these two rules were used in combination the driver could drive 13 hours in a 16-hour period. Is that allowable?.....

D-7. When the "16 hour exception" is used, may sleeper berth periods or extended off-duty periods be included in the "duty tour?" How does this affect team drivers?.....

## E. 34-HOUR RESTART.....

E-1. Does 34 consecutive hours off duty automatically restart the calculation of the 60/70-hour on-duty period?.....

E-2. If a driver works at another job, unrelated to trucking, during his 34-hour off-duty restart period, and then begins a duty shift for the trucking company, does the 34-hour restart provision apply?.....

E-3. If a driver must take one or more days off to get into compliance with 60-/70-hour requirement, can that same time period be counted toward the 34-hour restart?.....

E-4. Is use of the 34-hour restart period mandatory?.....

E-5. If a driver is on-call, but has not been called for 34 hours, may those 34 hours be counted as a 34-hour restart?.....

E-6. How does a roadside inspector know that a 34-hour off duty period used during the previous 7/8 consecutive days may legally be used to restart a driver's 60/70-hour clock when the inspector does not have access to duty

records prior to the restart to ensure the driver did not accumulate more than 60/70 hours on duty prior to the restart?.....

E-7. If a driver takes the 34-hour reset in Canada just before entering the U.S., will it be recognized as such in the U.S.?.....

E-8. How should the “recap” section of the logbook page be completed when using a 34-hour restart to begin a new 60/70 hour period?.....

#### F. SLEEPER BERTHS.....

F-1. May a driver spend part of his 34 hours of consecutive off-duty time in a sleeper berth?.....

F-2. After 10 hours off duty, a driver has recorded driving time and one or more periods in the sleeper berth, that do not total 10 hours. In this case, how is the 14-hour rule calculated during a roadside inspection?.....

F-3. If there is a violation of the 11 or 14-hour rule before a driver obtains a second sleeper berth period, would the single previous sleeper berth period be used toward the calculation of the 14-hour rule?.....

F-4. If a team driver goes directly from 10 consecutive hours off-duty to the sleeper berth at the start of his duty period, can the sleeper berth period be excluded from calculation of the 14-hour limit?.....

#### G. OILFIELD OPERATIONS.....

G-1. Are drivers of vehicles that are specially constructed to service oil wells required to log waiting time as on-duty time under the new rule?.....

G-2. May oilfield operations continue to use the provisions specified in § 395.1(d)(2) to allow drivers of commercial motor vehicles specially constructed to service oil wells to exclude waiting time at a natural gas or oil well site from on-duty time?.....

G-3. Is off-duty time at a yard for oil-field equipment excluded from the 14-hour calculation?.....

G-4. May “oilfield” drivers take advantage of the 16-hour exception provided for property-carrying drivers under § 395.1(o)?.....

G-5. Mechanics are often dispatched with oilfield service crews. Some of the mechanic’s service vehicles meet the definition of a CMV. Can these mechanics use the oilfield operations exceptions found in 395.1(d)?.....

H. DRIVER-SALESPERSONS.....

H-1. What hours-of-service (HOS) exceptions are available to “driver-  
salespersons”?.....

## **A. GENERAL PROVISIONS**

### **A-1. When were carriers and drivers allowed or required to comply with the new hours-of-service rules?**

Carriers and drivers were required to operate under the former rules through January 3, 2004. That allowed adequate time for the Federal Motor Carrier Safety Administration (FMCSA), regulated industry, and the enforcement community to be trained and make any systems changes required by the new rules. Compliance with the new rules was required starting January 4, 2004.

#### **A-1.1. On January 3rd, a driver took a full 10 hr. break and drove over midnight into the 4th. Was the driver able to drive 11 hours?**

Yes. If a period of off or on-duty activity started on Jan. 3 and continued to Jan. 4, the driver/carrier had the option of using either the “old” or “new” rules. On January 4, 2004, a driver could continue under the “old” rules until the end of the trip or the end of the day on Jan. 4 whichever came first.

#### **A-1.2. On January 3rd, the driver was off for a full 24 hours and continued into January 4th with off duty time for an additional 10 hours to obtain a full 34 hrs. Was the driver be able to utilize the 34 hr reset?**

Yes. Since the driver’s off duty time extended into the compliance date of the regulations, the 34-hour restart may have been used. [Revised 1/16/04]

### **A-2. Are previous interpretations and guidance regarding hours-of-service still valid?**

The FMCSA is currently updating and revising its regulatory guidance to Part 395 of the Federal Motor Carrier Safety Regulations (FMCSRs) to conform to the provisions of the new hours-of-service regulations, and to provide additional guidance concerning the application of the new regulations. All prior interpretations and regulatory guidance relating to Part 395 of the FMCSRs, as well as FMCSA and FHWA memoranda and letters concerning Part 395, may no longer be relied upon as authoritative to the extent they are inconsistent with the final rule published April 28, 2003 and the Technical Amendments published September 30, 2003. All interpretations and guidance for Parts other than Part 395 remain valid.

[Posted 12/30/03]

### **A-3. Are there exceptions to the hours-of-service rules?**

Yes. For example, vehicles used in ground water well-drilling operations, utility service, and transporting construction materials and equipment retain the current 24-hour restart



provision. However, these drivers are required to comply with the new 10-hour off-duty and 11-hour driving limitations, as well as the prohibition on driving after the 14th hour after coming on duty. [Posted April 2003]

**A-4. How do the new rules differ from former hours-of-service (HOS) regulations?**

The former HOS rules allowed 10 hours of driving within a 15-hour on-duty period, after 8 hours of off-duty time. Also, drivers could not drive after their 15<sup>th</sup> hour on duty in a workday or after being on duty 60 hours in a 7 consecutive day period or 70 hours in an 8 consecutive day period. These rules remain in effect for passenger-carrying commercial drivers involved in interstate commerce.

The new HOS rules allow property-carrying commercial drivers to drive 11 hours after 10 consecutive hours off-duty. Also, drivers may not drive beyond the 14<sup>th</sup> hour after coming on duty, following 10 hours off duty. Similar to existing rules, drivers may not drive after 60 hours on duty within a consecutive 7-day period or 70 hours on duty in a consecutive 8-day period. However, drivers may restart a 7/8 consecutive day period after taking 34 or more consecutive hours off duty. [Posted 12/30/03]

**A-5. Why is the maximum driving time increasing from 10 hours to 11 hours? How does raising the number of driving hours save lives?**

The new science-based rule makes significant strides in providing commercial drivers a 24-hour work/rest schedule in line with the body's circadian rhythm. The longer off-duty time allows drivers to have more regular schedules and increases the potential for quality sleep. This is consistent with fatigue- and sleep-related studies considered in development of the rule that indicate the amount and quality of sleep a person receives has a strong influence on alertness. [Posted 12/30/03]

**A-6. Won't the restart provision cause drivers to tire more easily than the current hours-of-service (HOS) provisions?**

No. The restart provision is set up to help drivers obtain more restorative sleep than under the existing HOS rules. The combination of a longer, daily off-duty period, and the limitation on driving to within 14 hours of starting the work day, is designed to enable the driver to work a more regular schedule, limit the opportunities for driving while fatigued, and promote better opportunities for sleep. [Posted 12/30/03]

**A-7. How does the final rule benefit the motor-carrier industry?**

The first priority in finalizing this rule is safety. In addition, drivers will have a better opportunity to obtain rest and restorative sleep, so they can be alert and drive safely, than under current HOS rules. The final rule helps to eliminate some of the worst aspects of daily

rotating schedules and the compression of weekly on-duty time into a short portion of the workweek. Additionally, motor carriers should see lowered costs through a reduction in crashes.

[Posted 12/30/03]

#### **A-8. How does the final rule benefit the American public?**

The FMCSA estimates this rule may save up to 75 lives and prevent as many as 1,326 fatigue-related crashes annually. This hours-of-service rule should reduce commercial motor vehicle crashes, fatalities, and injuries, making America a safer place for the driving public.

[Posted 12/30/03]

#### **A-9. Why didn't the agency mandate a 24-hour clock?**

The final rule makes significant strides in providing drivers the opportunity for longer daily rest and restorative sleep, while moving in the direction of a 24-hour clock. This move toward more regular work and rest hours is accomplished while still allowing flexibility in motor carrier operations.

[Posted April 2003]

#### **A-10. What are the major provisions in this rule that really improve safety?**

This rule will help ensure that drivers get sufficient rest to drive safely. The new science-based rule makes significant strides in providing commercial drivers a 24-hour work/rest schedule in line with the body's circadian rhythm. This is done by reducing the workday from 15 to 14 hours, by replacing the required 8 off-duty hours with 10 off-duty hours, and by not allowing work breaks to extend the 14 hours on-duty time.

[Posted 12/30/03]

#### **A-11. What are the penalties for violating the hours-of-service (HOS) rules?**

Drivers or carriers who violate the HOS rules face serious penalties:

- Drivers may be placed out-of-service (shut down) at roadside until the driver has accumulated enough off-duty time to be back in compliance;
- State and local enforcement officials may assess fines;
- FMCSA may levy civil penalties on driver or carrier, ranging from \$550 to \$11,000 per violation depending on severity;
- The carrier's safety rating can be downgraded for a pattern of violations; and
- Federal criminal penalties can be brought against carriers who knowingly and willfully allow or require HOS violations.

However, FMCSA will only take enforcement measures for egregious violations during the first sixty days the rule is in effect.

[Posted April 2003]

#### **A-12. Are Electronic On-Board Recorders (EOBRs) required?**

No. FMCSA has decided not to mandate EOBRS at this time. The agency plans an expanded research initiative on EOBRS and other technologies, including evaluating alternatives for encouraging or providing incentives for their use. [Posted April 2003]

**A-13. Are motorcoach operators and drivers required to comply with the new rule?**

No. Motorcoach operators and drivers will continue to operate under the "old" hours-of-service rules that provide for an 8-hour off-duty period, no driving after 15 hours on-duty, and a 10-hour driving limit. FMCSA may reconsider its decision following completion of research assessing the unique characteristics of motorcoach operations. [Posted April 2003]

**A-14. What happens if a driver operates both a bus and truck for part of each day or each week?**

A driver will be subject to the limits on driving time applicable to the commercial motor vehicle (CMV) the driver is driving (11 hours for a property-carrying CMV, 10 hours for a passenger CMV), and will be required to meet the off-duty requirements applicable to the type of CMV the driver will drive immediately after that off-duty period (10 hours if the next assignment is in a property-carrying CMV, 8 hours if it is in a passenger CMV). For example, if a bus driver completes 8 hours off-duty for the motorcoach company, the driver must remain off-duty for another 2 hours before driving for the trucking company. After completing 10 consecutive hours off-duty, the driver may drive for 11 hours for the trucking company. Following 8 consecutive hours off-duty, the driver may then drive for the bus company. [Posted April 2003]

**A-15. If a State retains the 8 hours off-duty requirement for intrastate operations, may a driver who takes 8 hours off duty after completing an intrastate trip begin driving on an interstate trip?**

No. The driver must take an additional 2 consecutive hours off duty, for a total of 10 consecutive hours, before beginning an interstate trip. [Posted 12/30/03]

**A-16. How would "waiting time" at a terminal, plant, or port be logged?**

"Waiting time" at a terminal, plant, or port may be recorded as off duty, sleeper berth, or on duty/ not driving, depending on specific circumstances.

For "waiting time" to be off duty, the following off-duty conditions must be met:

- 1.** The driver must be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying.
- 2.** The duration of the driver's relief from duty must be a finite period of time which is of sufficient duration to ensure that the accumulated fatigue resulting from operating a

CMV will be significantly reduced.

3. If the driver is relieved from duty, as noted in (1) above, the duration of the relief from duty must have been made known to the driver prior to the driver's departure in written instructions from the employer. There are no record retention requirements for these instructions on board a vehicle or at a motor carrier's principal place of business.
4. During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing and to leave the premises where the vehicle is situated.

If circumstances permit a driver to utilize a valid sleeper berth without being disturbed for a specific period of "waiting time," that time in the sleeper berth may be recorded as "sleeper berth" time.

In most other circumstances, such as when the driver is required to remain with the vehicle to move it when necessary, the "waiting time" should be recorded as "on duty/not driving."

**[Revised 1/16/04]**

**A-17. May a driver be called after 8 hours off-duty to report to work 2 hours later?**

Yes. The hours-of-service rule does not control communication between the driver and the motor carrier during the driver's off-duty time, so the call may occur. However, the driver cannot be required to do any work for the motor carrier during the 10 hours of off-duty time.

**[Posted April 2003]**

**A-18. How does the new hours-of-service rule affect the adverse weather exception?**

The new hours-of-service rule continues to permit a driver to exceed the 10 or 11-hour driving limit by no more than 2 hours under adverse weather conditions; however, this adverse weather exception does not permit a driver to exceed the 14 or 15 hour limit or the 60/70 hour limit.

An absolute prerequisite for any use of the adverse weather exception must be that the trip involved is one that could normally and reasonably have been completed without a violation and that the unforeseen event occurred after the driver began the trip.

Drivers who are dispatched after the motor carrier has been notified or should have known of adverse driving conditions are not eligible for the two hours additional driving time provided for under [§395.1\(b\)](#), adverse driving conditions. The term "in any emergency" shall not be construed as encompassing such situations as a driver's desire to get home, shippers' demands, market declines, shortage of drivers, or mechanical failures. **[Posted April 2003]**

**A-19. How do the new hours-of-service (HOS) regulations apply to Mexican and Canadian drivers?**

Mexican and Canadian drivers operating in the United States must comply with FMCSA's hours-of-service (HOS) regulations. Although compliance with the HOS regulations is

checked by looking backward in time and activity occurring outside the U.S. may be taken into account, State and Federal officials may only impose penalties for violations that occurred in this country.

For example, upon entering this country, Canadian and Mexican drivers must show a current record of duty status (RODS) for the previous 7 consecutive days. U.S. officials cannot penalize a driver for actions that occurred abroad, but failure to have the previous 7 days of RODS while in the U.S. is a violation of § 395.8(k)(2). Additionally, Mexican and Canadian drivers of property-carrying commercial motor vehicles may not drive in the U.S. unless their last off-duty period (either here or abroad) amounted to 10 consecutive hours (or an authorized sleeper-berth equivalent). If such a driver took only 8 consecutive hours off duty in Mexico or Canada just before starting a trip into the U.S., he/she would be required to take 10 consecutive hours off duty immediately after entering this country. [Revised 2/24/04]

**A-20. Do the new HOS rules have any effect on the “24-hour restart” exceptions provided in § 395.1 for certain oilfield, water well drilling, construction, and utility service vehicle drivers?**

No. A driver meeting the requirements of § 395.1 for use of a “24-hour restart” of the 60 or 70 hour periods may continue to use those exceptions instead of the 34-hour restart provision for other drivers. Unlike 34-hour restart drivers who may not use that exception if they are in excess of the 60 or 70 hours at the beginning of the 34-hour period, a driver using the 24-hour restart provision may do so regardless of the number of hours worked prior to the start of the 24-hour period.

[Posted 1/16/04]

**A-21. How are “property-carrying” and “passenger-carrying” drivers determined as the terms are used in the new HOS Rule?**

It is easiest to determine “passenger-carrying,” with any other commercial motor vehicle (CMV) drivers to be considered “property-carrying.” The definition of a CMV in § 390.5 should be used to determine “passenger-carrying.” If a driver is operating a CMV “designed or used to transport more than 8 passengers (including the driver) for compensation; or... designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation,” the driver would be considered to be “passenger-carrying” *regardless of whether there were actually any passengers on the vehicle*. This would include, for example, new buses being delivered (driven) from manufacturer to dealer. Note that this definition for the passenger vehicles includes the phrase “...or used.” If passengers (more than 8 or 15 depending on circumstances) were being carried in the back of a straight truck, that truck would be “passenger-carrying” at that time.

[Posted 2/2/04]

## **B. 100 AIR-MILE EXCEPTION DRIVERS**

**B-1. Does the driving time for drivers choosing to use the 100 air-mile radius exception (requiring no log book) increase to 11 hours or is it kept at its current limitation of 10 hours driving?**

A property-carrying driver using the 100 air-mile radius exception is subject to the 11-hour driving time, 12-hour maximum duty period, and 10-hour off-duty time requirements of the new rule. However, a passenger-carrying driver using the 100 air-mile radius exception is subject to the 10-hour driving time, 12-hour maximum duty period, and 8-hour off-duty time requirement of the old rule. For both categories of drivers, if the driver exceeds the 12-hour maximum duty period, the driver must maintain a logbook for that day. [Revised 12/30/03]

**B-2. May a “100 air-mile radius” driver utilize the “16-hour duty period” exception in § 395.1(o)?**

Yes. A driver operating under the 100 air-mile exception in § 395.1(e) may also meet the requirements in § 395.1(o) enabling the driver to have 1 period of 16 hours duty each week (or after a 34-hour restart). However, on the day in which the 16-hour exception is utilized, the driver would not meet the 12-hour duty period requirement of the 100 air-mile logbook exception and would therefore be required to maintain a logbook for that day. [Posted 12/30/03]

**B-3. May drivers who work split shifts take advantage of the 100 air-mile radius exemption found at [§395.1\(e\)](#)?**

For property-carrying drivers, the concept of “split shifts” is no longer relevant due to the limitations of the 14-hour rule. The exception in 49 CFR 395.1(e) only provides an exception to the record of duty status (RODS), i.e., “logbook,” requirements. It does not exempt the driver from any requirements of the HOS rules.

A driver may go on and off duty multiple times during a duty tour, but all of the on- and off-duty time (with certain sleeper berth exceptions) continues to accumulate toward the 14-hour time limit. A driver utilizing the 100 air-mile radius exception would also be limited by the 14-hour rule. Regardless of how many times the driver goes on and off duty during the duty tour, if the driver exceeds a total of 12 consecutive hours from first starting the daily duty tour, the 100 air-mile exception would no longer apply and the driver will be required to maintain a RODS.

Prior Regulatory Guidance (§ 395.1 Question 19) on this subject no longer applies to property-carrying drivers. [Posted 12/30/03]

## **C. 14-HOUR PERIOD**

**C-1. May a driver be on duty for more than 14 hours?**

Yes. A driver may remain on duty for more than 14 hours; however, the driver cannot drive a CMV after the 14th hour after coming on duty. Also, the additional on-duty time will reduce on-duty time available under the 60/70-hour time limit. [Revised 12/30/03]

**C-2. If a carrier allows a driver to log mealtime as off-duty time, does that permit a driver to extend the 14-hour on-duty period?**

No. Off-duty breaks during the day do not extend the workday to permit a driver to drive after the 14th consecutive hour on duty. However, time logged as off duty is not counted in calculating a driver's 60/70-hour on-duty period. [Posted April 2003]

**D. 16-HOUR EXCEPTION**

**D-1. May a short-haul driver take two 15-hour on-duty periods in a seven-day period, rather than one 16-hour on-duty period?**

No. The 16-hour on-duty exception may not be split. [Posted April 2003]

**D-2. Won't the 16-hour exception result in additional fatigue?**

No. Safety is the agency's top priority. The 16-hour exception deals primarily with short-haul trucking operations in a common sense, accountable manner. The 16-hour exception takes into consideration legitimate business needs without jeopardizing safety. Short-haul operations typically spend more time performing on-duty, non-driving activities, than do long-haul operations, thus the extra hours result in significant improvements in efficiency. The one 16-hour on-duty period also allows carriers an opportunity to provide in-service training and education without impacting employee productivity. FMCSA estimates that without the extra 2 on-duty hours, the industry would be required to hire at least 48,000 new drivers. The agency believes this would actually worsen crash-reduction benefits.

[Posted 12/30/03]

**D-3. What is a "duty tour" as the term is used in § 395.1(o)? May a driver work a 16-hour extended day after having been off-duty for 34 consecutive hours? Must a driver comply with the 5-duty tour provision prior to a 34-hour off-duty period?**

The 16-hour exemption in § 395.1(o) is designed for one day "duty tours." The duty tour is the interval between the time a driver comes on duty and is released from duty on a daily basis. This period begins and ends at the driver's normal work reporting location and may only be used following 10 or more consecutive hours off duty, 10 or more consecutive hours in the sleeper berth, or a combination of 10 or more consecutive hours off-duty and sleeper berth time.

The 16-hour exemption may be used as long as the driver has not used it within the previous 6 consecutive days, except when the driver has begun a new 7- or 8-consecutive day period with the beginning of any off duty period of 34 or more consecutive hours. The driver must return to the normal work reporting location and be released from duty at that location for the previous 5 duty tours the driver has worked, regardless of whether or not the 34-hour restart provision is being used. [Posted 12/30/03]

**D-4. If a driver is “on duty, not driving” during the 15<sup>th</sup> and 16<sup>th</sup> hour of his duty tour and does not drive after that, has he used the 16-hour exception in 395.1(o)?**

No. Example: If a driver was on duty 16 hours on Wednesday, but didn't drive after being on duty 14 hours, could he use the 16 hour extension on Friday and be allowed to drive after the 14th hour as long as all other conditions and regulations (11-, 16-, and 60/70- hour rules) were met?

In this scenario, the driver may choose to use the 16-hour extension on Friday as long as the driver meets all of the requirements for the 16-hour exception outlined in 395.1(o) and also remains in compliance with 395.3(a)(1) and 395.3(b). Although the 16 hours on duty on Wednesday will count toward the driver's 60/70 calculations, the driver has not utilized the 16-hour exception unless the driver has actually driven after the 14<sup>th</sup> hour. [Posted 12/30/03]

**D-5. May a driver having more than one “normal” work reporting location use the 395.1(o) “16 hr exception”?**

As stated in 395.1(o) and current 395.1 Interpretation Question 15, a driver having more than one “normal” work reporting location could use the 395.1(o) 16-hour exception; however, its availability would be limited by the requirement of 395.1(o)(1) that the “carrier released the driver from duty at that location for the previous five duty tours the driver has worked...” Assuming the driver's normal duty tour is on a daily cycle, a driver alternating between two normal work locations on a weekly basis would not be able to utilize the exception unless he worked six days per week, and then the exception could only be used on the sixth day. [Posted 12/30/03]

**D- 6. May a driver utilize the adverse driving rule, which extends the driving time by two additional hours, in conjunction with the 16-hour exception, which allows driving during the 14<sup>th</sup> and 15<sup>th</sup> hour but does not remove the 11-hour driving limit? If these two rules were used in combination the driver could drive 13 hours in a 16-hour period. Is that allowable?**

No. A driver may not use the exception for adverse driving conditions while also using the 16-hour exception for property carrying drivers. Section 395.1(b)(1)(ii) of the adverse driving conditions exception specifically states that a property-carrying driver may not drive or be permitted to drive after he/she has been on duty after the end of the 14<sup>th</sup> hour after



coming on duty following 10 consecutive hours off duty.

[Posted 1/16/04]

**D-7. When the “16 hour exception” is used, may sleeper berth periods or extended off-duty periods be included in the “duty tour?” How does this affect team drivers?**

The 395.1(o) exception for property-carrying drivers is for drivers who return to the normal work reporting location and are released from duty at the end of each of the previous 5 duty tours. The use of 10 consecutive hours off duty or the equivalent (sleeper berth, off duty, or any allowable combination thereof) would interrupt the duty tour without the driver having returned to the work reporting location. This would be relevant for both single and team drivers. [Posted 2/2/04]

## **E. 34-HOUR RESTART**

**E-1. Does 34 consecutive hours off duty automatically restart the calculation of the 60/70-hour on-duty period?**

A driver may restart the 60/70-hour period by taking 34 or more consecutive hours off duty provided at the beginning of the 34-hour period, the driver has not accumulated more than 60 or 70 on-duty hours in the 7 or 8 consecutive day period. If a driver has exceeded the 60/70-hour on-duty limit, the driver may not utilize the 34-hour restart and must continue to operate under the provisions of section 395.3(b) to calculate the hours available under the 60/70-hour time limit. This would continue until the driver ends a 24 hour period under the 60/70-hour time limit.

Time spent to gain compliance with the 60/70-hour limitation may not be counted as part of a 34-hour re-start period. As soon as the driver ends a 24-hour period under the 60/70-hour limit, the driver has the option of either using any available time to drive up to the 60/70-hour limit and then beginning the 34-hour period, or remaining off duty for an additional 34-hour which would then restart the 7- or 8- day period. [Posted 12/30/03]

**E-2. If a driver works at another job, unrelated to trucking, during his 34-hour off-duty restart period, and then begins a duty shift for the trucking company, does the 34-hour restart provision apply?**

No. Performing compensated work for a person not a motor carrier is considered on-duty time. [Revised 12/30/03]

**E-3. If a driver must take one or more days off to get into compliance with 60-/70-hour requirement, can that same time period be counted toward the 34-hour restart?**

No. Time spent to gain compliance with the 60/70-hour limitation cannot be counted as part of a 34-hour restart period. As soon as the driver ends a 24-hour period under the 60/70 hour time limit, the driver has the option of either using any available time to drive up to the 60/70 hour time limit and then beginning the 34-hour period, or remaining off duty for 34 hours which would then restart the 7- or 8- day clock. [Posted 12/30/03]

**E-4. Is use of the 34-hour restart period mandatory?**

No. However, a motor carrier may establish an operating policy for utilizing the 34-hour reset when a driver qualifies for it under the provisions of 395.3(c)(1)(2). [Revised 2/2/04]

**E-5. If a driver is on-call, but has not been called for 34 hours, may those 34 hours be counted as a 34-hour restart?**

Yes, provided the carrier has not required the driver to report for work until after the 34-hour period has ended. [Posted April 2003]

**E-6. How does a roadside inspector know that a 34-hour off duty period used during the previous 7/8 consecutive days may legally be used to restart a driver's 60/70-hour clock when the inspector does not have access to duty records prior to the restart to ensure the driver did not accumulate more than 60/70 hours on duty prior to the restart?**

As stated in 395.8(k)(2), a driver shall retain a copy of each record of duty status for the previous 7 consecutive days which shall be in his/her possession and available for inspection while on duty. Therefore, during a roadside inspection a driver is only required to provide the inspector with records of duty status for the previous 7 consecutive days. Any time prior to this period would not be taken into account and the records reflecting the 34-hour restart should be accepted as accurate unless the inspector finds other records to prove the 34-hour restart was used inappropriately. [Posted 1/16/04]

**E-7. If a driver takes the 34-hour reset in Canada just before entering the U.S., will it be recognized as such in the U.S.?**

Yes. Duty status changes and periods occurring in Canada before entering the U.S. are included in hours-of-service calculations while in the U.S. [Posted 12/30/03]

**E-8. How should the "recap" section of the logbook page be completed when using a 34-hour restart to begin a new 60/70 hour period?**

The record of duty status (RODS) pages printed by most commercial firms include a "recap" on each page for drivers to calculate compliance with the 60/70 hour limits and show "time

remaining” within those limits. This “recap,” however, is not required or addressed by the Federal Motor Carrier Safety Regulations. Therefore, the “recap” may be completed in any manner desired. [Posted 2/24/04]

## F. SLEEPER BERTHS

### **F-1. May a driver spend part of his 34 hours of consecutive off-duty time in a sleeper berth?**

Yes, provided the 34-hour period is consecutive and not broken by on-duty or driving activities. [Posted April 2003]

### **F-2. After 10 hours off duty, a driver has recorded driving time and one or more periods in the sleeper berth, that do not total 10 hours. In this case, how is the 14-hour rule calculated during a roadside inspection?**

During a roadside inspection, the 14-hour rule is calculated by including all time (on-duty, off-duty, sleeper berth, and on duty/not driving), except that a single sleeper berth period, in excess of 2 hours, is excluded from this calculation if it may be combined with a subsequent sleeper berth period to achieve 10 hours off-duty and provide driving time when completed. Any sleeper berth periods that cannot be used in combination with a subsequent sleeper berth period to achieve 10 hours off-duty and provide driving time must be counted toward the 14-hour rule. [Posted 12/30/03]

### **F-3. If there is a violation of the 11 or 14-hour rule before a driver obtains a second sleeper berth period, would the single previous sleeper berth period be used toward the calculation of the 14-hour rule?**

No. The time the driver spent in a qualifying sleeper berth is not counted toward determining whether or not the driver is in violation of the 14-hour rule. In this case, a qualifying sleeper berth period is a sleeper berth period of at least 2 hours that when combined with an additional sleeper berth period will result in the driver having legal hours to drive. [Posted 12/30/03]

### **F-4. If a team driver goes directly from 10 consecutive hours off-duty to the sleeper berth at the start of his duty period, can the sleeper berth period be excluded from calculation of the 14-hour limit?**

Yes. It would be a “...combination of at least 10 consecutive hours off duty and sleeper berth time...” per 395.1(g)(1). The driver would not be permitted to perform any duties, such as pre-trip inspections, prior to using the sleeper berth. [Posted 1/16/04]

## G. OILFIELD OPERATIONS

### **G-1 . Are drivers of vehicles that are specially constructed to service oil wells required to log waiting time as on-duty time under the new rule?**

No. The new rule retains the current exception in § 395.1(d)(2), which provides that these drivers are not required to log time waiting at a natural gas or oil well site as "on duty, not driving" time. This specific group of drivers is allowed to extend, by the amount of their waiting time, the 14-hour period after coming on duty during which driving is allowed.  
[Posted 12/30/03]

### **G-2. May oilfield operations continue to use the provisions specified in § 395.1(d)(2) to allow drivers of commercial motor vehicles specially constructed to service oil wells to exclude waiting time at a natural gas or oil well site from on-duty time?**

Yes. The provisions specified in § 395.1(d)(2) were not affected by the new hours-of-service rule. Waiting time at a natural gas or oil well site may be recorded as off-duty and will not count toward the calculation of the 14-hour rule.  
[Posted 1/16/04]

### **G-3. Is off-duty time at a yard for oil-field equipment excluded from the 14-hour calculation?**

No. Off-duty time at a yard for oil-field equipment is counted toward the calculation of the 14-hour rule. Only waiting time at a natural gas or oil well site may be excluded from on-duty time.  
[Posted 1/16/04]

### **G-4. May "oilfield" drivers take advantage of the 16-hour exception provided for property-carrying drivers under § 395.1(o)?**

No. The exception in § 395.1(o) is only available to drivers who otherwise strictly observe the 14-hour limit. Since § 395.1(d)(2) allows drivers of commercial motor vehicles specially constructed to service oil wells to exclude waiting time at a natural gas or oil well site from on-duty time, these drivers do not strictly observe the 14-hour limit on a daily basis. An oilfield driver may choose to use the exception provided in either § 395.1(d)(2) or § 395.1(o), but not both.  
[Posted 1/16/04]

**G-5. Mechanics are often dispatched with oilfield service crews. Some of the mechanic's service vehicles meet the definition of a CMV. Can these mechanics use the oilfield operations exceptions found in 395.1(d)?**

Based on the language of 49 CFR §395.1(d)(1), dedicated oilfield mechanics operating CMVs are able to take advantage of the 24-hour restart provision since they are servicing the vehicles/equipment associated with field operations. However, the mechanics may not take advantage of the provisions of 395.1(d)(2) to exclude waiting time at a natural gas or oil well site from on-duty time because the vehicle being operated is not specially constructed to service oil wells.

[Posted 1/16/04]

## H. DRIVER-SALESPERSONS

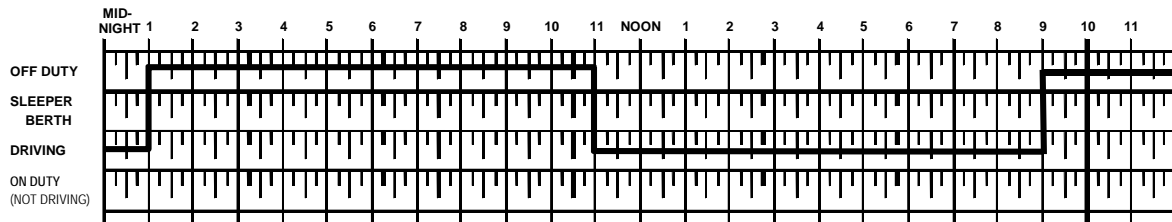
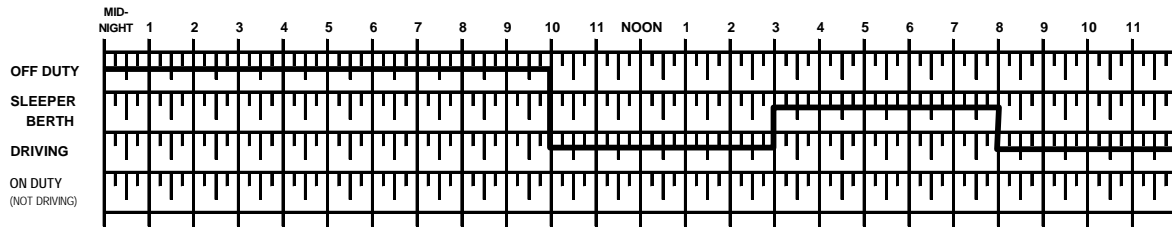
**H-1. What hours-of-service (HOS) exceptions are available to “driver-salespersons”?**

- Under § 395.1(c), a driver meeting the “driver-salesperson” definition in § 395.2 (private carrier, solely delivering and selling goods or services, 100 air-mile radius, no more than 50% of on-duty time is driving) does not have to comply with the 60/70 hour limitation if the driver does not exceed 40 hours driving in any 7 consecutive day period.
- A property-carrying driver-salesperson may use the “no log book” provision of § 395.1(e) if the driver-salesperson meets the requirements of operating within a 100 air-mile radius and has at least 10 consecutive hours off duty separating each 12 hours on duty. Although a driver-salesperson is not required to return to the work reporting location to be released from work within 12 hours, the driver may not drive after the 14<sup>th</sup> hour after coming on duty. Driver-salespersons using the 100 air-mile radius exception must complete a record of duty status (log sheet) on days in which they exceed 12 hours on duty.
- A driver-salesperson may be eligible to use the 16-hour exception of § 395.1(o) if the driver meets all of the requirements of that section.

[Posted 2/24/04]

During a roadside inspection, a single sleeper berth period, in excess of 2 hours, is excluded from the calculation of the 14-hour rule if it may be combined with a subsequent sleeper berth period to achieve 10 hours off-duty. Therefore, the sleeper berth period from 3:00 p.m. to 8:00 p.m. on Day 1 would not be considered when calculating the 14-hour rule. .

## 14-Hour Calculation With One Sleeper Berth Period:

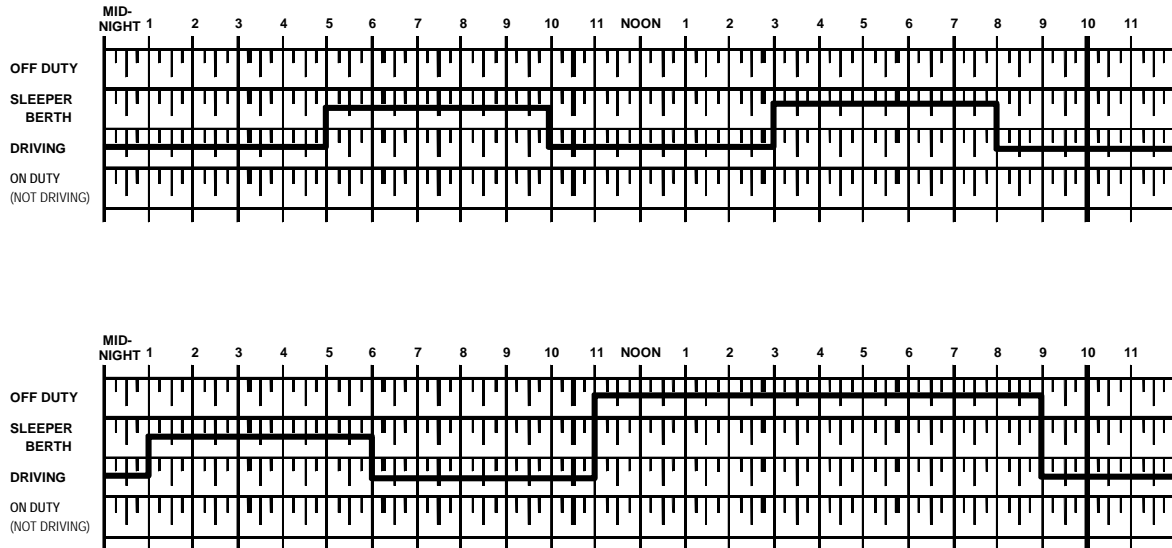


**Is the driver in compliance? NO - The driver has driven 1 hour (midnight – 1:00 a.m.) after 14-hours on duty.**

To exclude sleeper berth time from the 14-hour calculation, a driver must have at least two qualifying sleeper berth periods totaling at least 10 hours immediately prior to taking 10 or more consecutive hours off-duty. If a driver uses only one sleeper berth period, it may not be combined with 10 or more consecutive hours off duty and the sleeper berth is counted toward the calculation of the 14-hour rule.

## Sleeper Berth Combinations:

### Example: 1



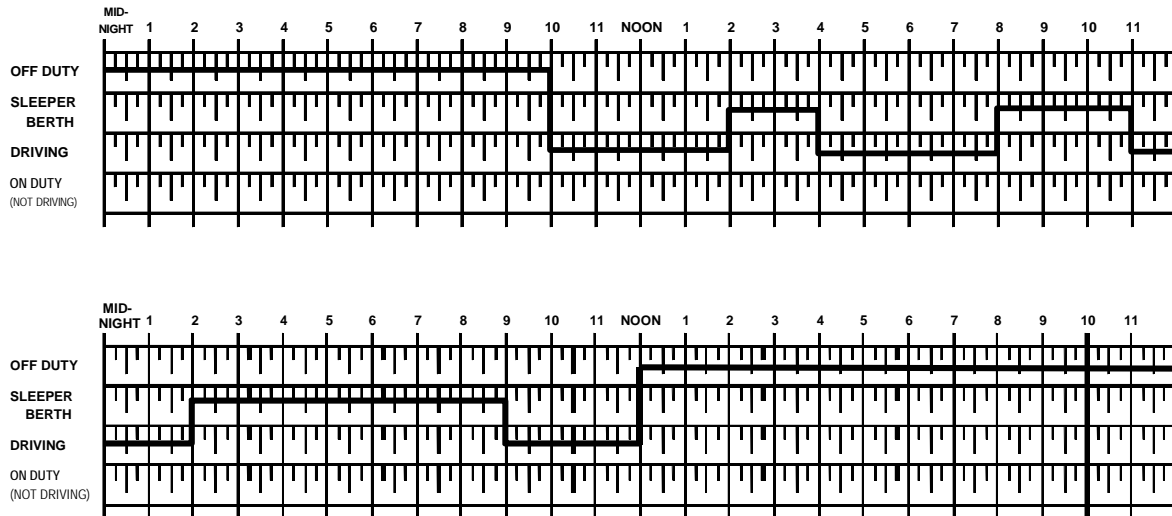
### Is the driver in compliance? YES

A driver may accumulate the equivalent of 10 consecutive hours off-duty by taking two periods of rest in the sleeper berth. If a driver has two qualifying sleeper berth periods totaling at least 10 hours immediately prior to taking 10 or more consecutive hours off duty, the driver may also combine the last sleeper berth period with a 10 consecutive hour off duty period.

In the above scenario, the sleeper berth periods may be combined to accumulate the equivalent of 10 consecutive hours off duty. In addition the last sleeper berth period from 1:00 a.m. to 6:00 a.m. on Day 2 may also be combined with the driver's 10 consecutive hour off duty period on Day 2 and this last sleeper berth period would not be included in the calculation of the 14-hour rule. Therefore, drivers who regularly use sleeper berths may go off duty at the end of a trip without going into a sleeper berth at home or at terminal to satisfy the requirement for two sleeper-berth periods.



## Example: 2



**Is the driver in compliance? YES**

A driver may accumulate the equivalent of 10 consecutive hours off-duty by taking a combination of at least 10 consecutive hours off-duty and sleeper berth time or by taking two periods of rest in the sleeper berth. In the above scenario, the sleeper berth period from 8:00 p.m. to 11:00 p.m. on Day 1 may be combined with the sleeper berth period on Day 2 to accumulate the equivalent of 10 consecutive hours off-duty. The sleeper berth period from 2:00 p.m. to 4:00 p.m. on Day 1 would be counted toward the calculation of the 14-hour rule.

## 60/70-Hour Calculations and 34-Hour Restart:

### Example: 1

Day	Total Driving and On Duty Hours	Total Hours On Duty 60/7-Day Period
1 – Monday	10	
2 – Tuesday	14	
3 – Wednesday	12	
4 – Thursday	11	
5 – Friday	14	
6 – Saturday	0	
7 – Sunday	13	74
8 – Monday	0	74-10 (Day 1) = 64
9 - Tuesday	0	64-14 (Day 2) = 50 (10 Hours Available to Drive)

Note: In this example, the driver has not been off duty for 34 or more consecutive hours and each day represents a 24-hour period that begins at 12:01 a.m.

### When may the driver begin a 34-hour off duty period to restart the 7-day period?

#### Tuesday, Day 9 at 12:01 a.m.

A driver may restart a 60-hour period by taking 34 or more consecutive hours off duty provided at the beginning of the 34-hour period, the driver has not accumulated more than 60 on-duty hours in the 7-consecutive day period. In the above example, the driver exceeded the 60-hour on duty limit on day 7 (Sunday) with a total of 74 hours on duty. Therefore, the driver must take enough time off duty to regain compliance with this rule prior to using the 34-hour restart provision. Based on the scenario outlined above, the driver does not gain compliance with the 60/7-day rule until 12:01 a.m. on day 9 (Tuesday). At that time, the driver has a total of 50 hours on duty and would be legal to drive a CMV for 10 hours. However, if the driver remained off duty for an additional 34 hours (12:01 a.m. on Tuesday to 10 a.m. on Wednesday), he would be eligible to restart his 7-day period.

**Example: 2**

Day	Total Driving and On Duty Hours	Total Hours On Duty 70/8-Day Period
1 – Sunday	0	
2 – Monday	14	
3 – Tuesday	0	
4 – Wednesday	12	
5 – Thursday	14	
6 – Friday	14	
7 – Saturday	14	
8 – Sunday	12	80
9 – Monday	0	80-0 (Day 1) = 80
10 – Tuesday	0	80-14 (Day 2) = 66 (4 Hours Available to Drive)

Note: In this example, the driver has not been off duty for 34 or more consecutive hours and each day represents a 24-hour period that begins at 12:01 a.m.

**When may the driver begin a 34-hour off duty period to restart the 8-day period?****Tuesday, Day 10 at 12:01 a.m.**

A driver may restart a 70-hour period by taking 34 or more consecutive hours off duty provided at the beginning of the 34-hour period, the driver has not accumulated more than 70 on-duty hours in the 8-consecutive day period. In the above example, the driver exceeded the 70-hour on duty limit on day 8 (Sunday) with a total of 80 hours on duty. Therefore, the driver must take enough time off duty to regain compliance with this rule prior to using the 34-hour restart provision. Based on the scenario outlined above, the driver does not gain compliance with the 70/8-day rule until 12:01 a.m. on day 10 (Tuesday). At that time, the driver has a total of 66 hours on duty and would be legal to drive a CMV for 4 hours. However, if the driver remained off duty for an additional 34 hours (12:01 a.m. on Tuesday to 10 a.m. on Wednesday), he would be eligible to restart his 8-day period.